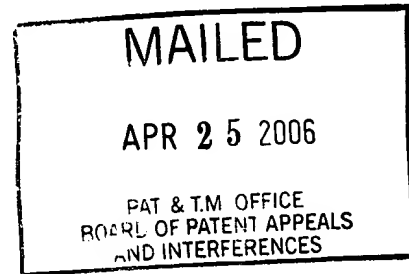


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STUART SERKIN and PETER MARYTN



Application No. 09/401,873

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 4, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On September 15, 2004, appellants filed a reply brief in response to the examiner's answer mailed July 13, 2004. However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section 1208.03 of the Manual of Patent Examining Procedure (8th ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A)

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acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) provide proper response to the reply brief filed September 15, 2004; and 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

Dale M. Shaw
Program and Resource Administrator
(571)272-9797

cc: Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

DMS/tdl